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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,337	01/22/2002	Craig D. Johnson	68.0233	4747

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EXAMINER

WALKER, ZAKIYA NICOLE

ART UNIT	PAPER NUMBER
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3672

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/054,337

Applicant(s)

JOHNSON ET AL.

Examiner

Zakiya N. Walker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20, 28 and 31-34 is/are allowed.
- 6) ☒ Claim(s) 21-23 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 24, 29 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: .

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 29 and 30 are objected to because of the following informalities: It appears that claim 29 should depend from claim 28 instead of claim 24. For examining purposes, claim 29 has been treated as dependent from claim 28. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 21-23, 26, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Dusterhoft et al.

Dusterhoft et al. discloses a method that includes covering at least one of a plurality of holes 20 of a base pipe 14, disposing the base pipe adjacent a formation 312, and flowing production fluid from the formation through one or more uncovered

holes 16. With respect to claims 22, 23, 26, and 27, the method further teaches filtering the production fluids, inhibiting erosion of a filter 18 (this method prevents erosion of screen/filter, unlike prior art of Fig. 2), varying the size of the plurality of holes (hole 20 is shown greater than hole 16), and varying the number of holes per unit area (see Fig. 3).

4. Claims 21-23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Sparlin et al.'949.

Sparlin et al.'949 discloses a well method that includes covering (via 13) at least one of a plurality of holes 14 of a base pipe 11, disposing the base pipe adjacent a formation, and flowing production fluid from the formation through one or more uncovered holes (holes 14 that are not covered by 13, see Figs. 2 and 3). With respect to claims 22, 23, and 25, the method further teaches filtering the production fluids, inhibiting erosion of a filter 9, 10 (via tortuous path 12), and inhibiting erosion of the base pipe (via tortuous path 13).

#### ***Allowable Subject Matter***

5. Claims 1-20, 28, and 31-34 are allowed.

6. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 29 and 30 would be allowable if rewritten to overcome the objection set forth in this Office action (paragraph #1).

***Response to Arguments***

8. Applicant's arguments, see paper #9 (pages 13-14), filed 9/22/03, with respect to the Cornette et al. reference have been fully considered and are not persuasive with regards to the argument that the assembly of the reference is not "adapted to vary fluid communication" because the openings in the jacket/sleeve may be any desired width (col. 4, lines 59-64), which makes the assembly *adapted* to vary fluid communication. Instead, after reconsideration of the reference, it is recognized that the reference does not anticipate the cited claims because rotation of the sleeve does not align or misalign the holes with the openings, as required by both independent claims 10 and 20. The rejection of claims 10, 14-16, and 18-20 has been withdrawn.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

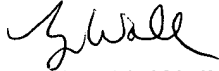
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zakiya N. Walker whose telephone number is (703) 305-0302. The examiner can normally be reached on Monday-Thursday, 6:30 AM-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (703) 308-2151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

  
Zakiya N. Walker  
Examiner  
Art Unit 3672

ZW  
November 26, 2003